UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF OKLAHOMA

RONICA R. TABOR, on behalf of Herself and all others similarly situated, and DACIA S. GRAY, on behalf of Herself and all others similarly situated,))))
PLAINTIFFS,)
vs.) Case No. 09-CV-189-GKF-FHM
HILTI, INC., a Domestic For Profit Business Corporation, and HILTI OF AMERICA, INC., a Foreign For Profit Business Corporation,))))
DEFENDANTS.	,

OPINION AND ORDER

Defendant Hilti's Motion to Quash Notice [Dkt. 69] & for Protective Order [Dkt. 71] and Plaintiffs' Emergency Motion to Compel [Dkt. 70] are before the Court for decision. The motions concern the deposition of Mr. Cary R. Evert, the CEO of Hilti, Inc.¹

Hilti contends that Mr. Evert has no direct knowledge of any of the allegations in the Amended Complaint, is not listed as a witness in the case and can not add anything to the deposition testimony already provided by witnesses from Hilti.

Plaintiffs contend that Mr. Evert is the direct supervisor of all vice-presidents of outside sales divisions in North America and has intimate knowledge of the interview process, how Hilti "corporate culture" is defined and the applicant recruiting and tracking

¹ Plaintiffs' motion also addresses two other depositions as a "precautionary effort." [Dkt. 70, p. 2]. Issues regarding those depositions are not ripe for decision and will not be addressed in this Order.

process. Plaintiffs claim Mr. Evert possesses critical information relevant to the

Plaintiffs' reply to Defendant's response to the Motion for Class Certification.

The Court has discretion to regulate depositions to protect a person from

annoyance, oppression or undue burden or expense. Fed.R.Civ.P. 26(c); Evans v.

Allstate, 216 F.R.D. 515 (N.D. Okla. 2003).

Based upon the representations in Hilti's motion, the Court finds that Hilti has

made a sufficient initial showing to justify a protective order preventing the deposition

of Mr. Evert. The Court further finds that Plaintiffs' responsive arguments are

conclusory and lacking in specific factual support. The Court is particularly troubled by

the claim that the deposition is needed to support Plaintiffs' reply to Defendant's

response to the Motion for Class Certification. Defendant's response was not filed

when Plaintiffs noticed Mr. Evert for deposition. Moreover, the support for the Motion

for Class Certification should be in the motion, not in the reply.

Defendant Hilti's Motion to Quash Notice [Dkt. 69] & for Protective Order [Dkt.

71] are GRANTED. Plaintiffs' Emergency Motion to Compel [Dkt. 70] is DENIED.

SO ORDERED this day 26th of July, 2010.

FRANK H. McCARTHY

UNITED STATES MAGISTRATE JUDGE

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